

**REMARKS**

Claims 29-41 remain in the application. Only Claims 29 and 36 are in independent form.

**Affidavit Submitted Under 37 C.F.R. §1.132**

On May 4, 2007, the Applicant submitted an affidavit from Mark H. Jones, inventor of the subject application, for the purpose of supporting the patentability of the subject invention and introducing evidence of commercial success for the claimed invention from numerous licenses granted to third parties. The Applicant's invention, as set forth in Claims 29-41, possesses actual, present commercial value, the continued exploitation of which is dependent upon a favorable disposition of this patent application.

The Applicant notes that recognition of its affidavit under 37 C.F.R. §1.132 has not been formally acknowledged by the Examiner and respectfully requests that due consideration be given to this important document and its persuasive value, lobbying in support of patentability of this invention. Accordingly, further consideration of the prior-submitted affidavit is respectfully requested.

**Claim Rejections Under 35 U.S.C. §112**

Claims 29-41 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

Specifically, there appears to be confusion over the marking (distinctive indicia) assigned to balls 37 and/or 38 in the defined set of balls set forth in Applicant's claims. In each defined set of balls used for game play and also in the apparatus of the invention, all of the balls receive a

unique marking—unique in the sense of being different one from another. Thirty-six of the balls receive the numbers 1, 2, 3 … 36, whereas the remaining one or two balls (i.e., balls 37 and/or 38) in the defined set are marked with other distinctive indicium – that is, other than the whole numbers 1-36. For example, the remaining one or two balls may be marked with the numbers “37” and “38” or, in another example, they may be marked with “0” and “00.” In reality, it does not matter what specific indicia is marked on balls 37 and/or 38. What matters is that balls 1-36 are marked consecutively “1-36,” whereas balls 37 and/or 38 are marked with some other unique indicium that is not the numbers 1-36. In this manner, the subject invention is capable of achieving a true simulation with the conventional game of roulette, but without relying upon the roulette wheel to establish a game decision.

The Applicant has amended Claims 29 and 36 to clarify the nature of the unique markings placed upon balls 37 and/or 38. It is, therefore, respectfully submitted that the rejection of claims based on indefiniteness has been overcome.

#### **Claim Rejections Under 35 U.S.C. §103**

Claims 29-41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Boylan. Boylan teaches a substantially dissimilar method of playing a game of chance compared to that set forth in Applicant’s claims. There is no relation between the game described in Boylan and that set forth in Applicant’s claims. The Applicant’s claimed invention achieves a true simulation (and odds equality) with the conventional game of roulette using different methods for determining a game outcome and different structural components in the apparatus for game play.

Boylan, in Figure 5, describes a method of game play that is stated as “broadly similar” to roulette. However, Boylan is in fact very different from conventional roulette in many respects. For example, Boylan teaches four isolated containers (92). Four balls are provided, one ball for each container (92). These four balls and four containers form the selection device as described in Column 12, Lines 43-46, in Boylan. The claimed invention and conventional roulette use only one selection device. Thus in Boylan, game outcome is determined by four balls which are simultaneously “singulated.” As shown in Figures 9 and 10, some of the balls 184 have repeating indicia. As an example, the Union Jack is shown in numerous instances, together with multiple occurrences of the American flag. As a result, the probability that any one indicium will be publicized as a winning selection is not equivalent to 1 divided by the total number of balls in a defined set. Thus, Boylan represents a substantially different method of game play.

Boylan teaches that the outcome of the game is based on the selection of multiple symbols. Boylan teaches that the number of a player’s set (the numbers selected by a player) contains less player symbols than the predetermined plurality of winning numbers to be selected. One or more additional symbols are added to the game play and used to determine if a different payout of the winning wager should be made. Thus, according to Boylan, the outcome of the game is based on the selection of multiple symbols and is not in any way capable of achieving a probability factor equivalent to that of conventional roulette, which is also the same as that set forth in the Applicant’s amended claims.

Game decision probability is of immense importance in the field of regulated games of chance. As an industry, the gaming manufacturers and casinos must pay strict attention to the certainty with which a particular game of chance will produce any given game decision. The Applicant’s invention has been carefully crafted to achieve a very specific probability factor.

This probability factor is clearly recited in the pending claims. The Applicant is not interested in patenting a game of chance like that described in Boylan. In Boylan, multiple balls are drawn for each game decision and selected from at least 50 different marked balls in each defined set, some of which contain repeating indicium. Any person of skill in the field of gaming will appreciate that the Applicant's claimed invention is not similar to Boylan.

It is respectfully submitted that the amended claims, which recite significant and distinguishing features which provide relevant operating characteristics in a game of chance, are both novel and non-obvious in view of Boylan and the other prior art references of record. Furthermore, the Applicant's affidavit under Rule 1.132, submitted May 4, 2007, underscores the actual commercial value of this invention by citing numerous instances where commercial casinos have licensed rights under the claimed invention so as to make this game available to customers. Accordingly, it is respectfully submitted that the substantive rejections be withdrawn and the application passed to allowance without further delay.

**Concluding Remarks**

If an interview (either telephonic or personal) with the undersigned representative may lead to beneficial disposition of this application, the Applicant respectfully invites the Examiner to notify its undersigned representative to discuss options which may lead to placing the application in condition for allowance.

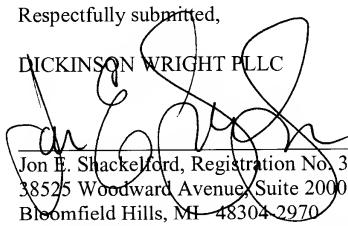
Reconsideration of this application is respectfully requested on the basis of these amendments.

It is believed that this application is now in condition for allowance. Further and favorable action is requested.

The Patent Office is authorized to charge any fee deficiency or refund any excess to Deposit Account No. 04-1061.

Respectfully submitted,

DICKINSON WRIGHT PLLC

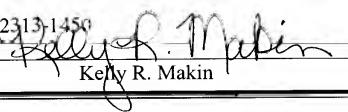
  
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